



In this case, clear orders compelling discovery are present in the record. Further, Defendants willfully ignored the orders, claiming to have misunderstood the dispute or orders in question. The Court fails to see how Defendants could have been confused regarding the matter since the request for production giving rise to the present motion was directly addressed and specific directions were given in a discovery conference and a subsequent written order. If Defendants were confused, they had an obligation to approach the Court or Plaintiff for clarification rather than disregard the orders completely. Finally, Plaintiff was prejudiced due to the expense and time expended in efforts to ensure compliance with the Court's orders during accelerated preparation for trial.<sup>1</sup> Plaintiff's Motion is therefore GRANTED and Defendants and/or Defendants' attorneys<sup>2</sup> are ORDERED to pay to Plaintiff its reasonable costs and expenses related to Defendants' failure to comply in the amount of \$3,023.00.<sup>3</sup>

**IT IS SO ORDERED.**

s/ Gary A. Fenner  
Gary A. Fenner, Judge  
United States District Court

DATED: April 2, 2009

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<sup>1</sup>In any event, the Court doubts whether a showing of prejudice is necessary to require payment of reasonable expenses under Rule 37(b)(2)(C) since that subsection states reasonable expenses caused by the failure must be awarded "unless the failure was substantially justified or other circumstances make an award of expenses unjust." Nothing on the record here justifies Defendants' obstinance—they were given ample opportunity to make objections to the discovery and were obligated to comply with the Court's orders once the Court ruled on the issue.

<sup>2</sup>Defendants and Defendants' attorneys are jointly and severally liable for the award of reasonable expenses and attorneys' fees.

<sup>3</sup>Plaintiff's request that Defendants be precluded from arguing, testifying, or introducing evidence that they have not improperly solicited Plaintiff's clients since the temporary restraining order and preliminary injunction first went into effect is DENIED as moot.